

0557-4557-2



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3-28-02
Z.H. Hilliard

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF :
HIROSHI MORIKAWA : GROUP ART UNIT: 2174
SERIAL NO. 09/219,890 :
FILED: DECEMBER 24, 1998 : EXAMINER: LUU, SY D.
FOR: OPERATION UNIT FOR AN :
IMAGE FORMING
APPARATUS

PROVISIONAL ELECTION

ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

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SIR:

In response to the Official Action mailed February 26, 2002, Applicant provisionally elects, with traverse, Group I, Claim 11 for further examination on the merits in the present application. Applicant makes this election based on the understanding that Applicant is not prejudiced against filing one or more divisional applications that cover the non-elected claims.

Applicants respectfully traverse the Restriction requirement because the PTO has not carried forward its burden of proof to establish distinctness.

In particular, MPEP § 803 states:

If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.

The claims of the present invention would appear to be part of an overlapping search area.

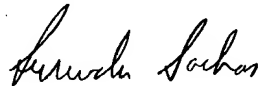
To do justice to either identified group of claims, it is respectfully submitted that it would be necessary to search in both Classes and subclasses identified in paragraph 4 at page 2 of the

outstanding Office Action. For these reasons, Applicants respectfully traverse the outstanding Election requirement on the grounds that a search and examination of the entire application would not place a *serious* burden on the Examiner.

Therefore, Applicants respectfully request that the Restriction Requirement be withdrawn. However, if the present Requirement is not withdrawn, examination on the merits of Claim 11 is believed to be in order, and an early and favorable action to that effect is respectfully requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
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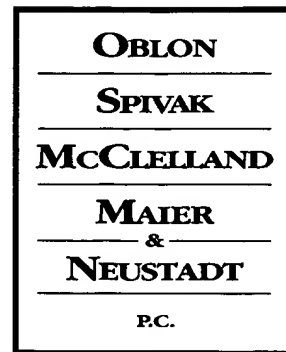
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Docket No.: 0557-4557-2

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ATTORNEYS AT LAW

RE: Application Serial No.: 09/219,890
Applicants: HIROSHI MORIKAWA
Filing Date: DECEMBER 24, 1998
For: OPERATION UNIT FOR AN IMAGE FORMING
APPARATUS
Group Art Unit: 2174
Examiner: LUU, SY D.

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SIR:

Attached hereto for filing are the following papers:

PROVISIONAL ELECTION

Our check in the amount of --00-- is attached covering any required fees. In the event any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 C.F.R. 1.136 for any necessary Extension of Time to make the filing of the attached documents timely, please charge or credit the difference to our Deposit Account No. 15-0030. Further, if these papers are not considered timely filed, then a petition is hereby made under 37 C.F.R. 1.136 for the necessary extension of time. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

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